

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re: FOSAMAX PRODUCTS
LIABILITY LITIGATION
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MDL 1789

KATHY BRITTAIN and LARRY BRITTAIN

Civil Action No. 08 CV 6846

Plaintiffs,

v.

MERCK & CO., INC.,

WAIVER OF SERVICE OF
SUMMONS

Defendant.
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To: Howard L. Nations, LAW OFFICES OF HOWARD L. NATIONS, 4515 Yoakum Blvd.,
Houston, Texas 77006

I acknowledge receipt of your request that I waive service of a summons in the action of *Kathy J. Brittain, et al., v. Merck & Co., Inc.* which is case number 08-CV-06846 in the United States District Court for the Southern District of New York. I have also received a copy of the Complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

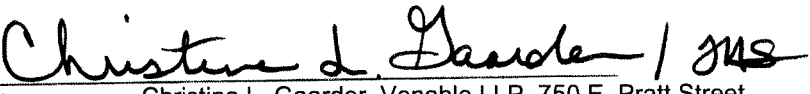
I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I or Merck & Co., Inc. be served with judicial process in the manner provided by Rule 4.

Merck & Co., Inc. will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against Merck & Co., Inc. if an answer or motion under Rule 12 is not served upon you within sixty (60) days after August 4, 2008, or within ninety (90) days after that date if the request was sent outside the United States.

August 13, 2008

Date


Signature Christina L. Gaarder, Venable LLP, 750 E. Pratt Street,
Printed/typed name: Suite 900, Baltimore, MD 21202
as: Outside Counsel
of Merck & Co., Inc.